

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. In the Office action, the Examiner rejected claims 34, 35, 62, 64, 66-68, 73 and 74 only under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. More specifically, the claims have been rejected on the grounds that the specification does not disclose that measured radiation is emitted in response to irradiation received from only a portion of an irradiated portion of a skin surface, referring to page 8, lines 4-8 and page 11, lines 6-7 of the specification as originally filed. However, in the specification, at page 7, lines 25-29 a preference is described for providing that: *"the surface 23 of the skin 7 within the irradiation window 8 from where light can be received by the fiber via the measuring window 18 is preferably greater than 0.1 cm² and in particular 1-4 cm², but smaller than the irradiation window and hence smaller than the irradiated surface of the skin 7."* (emphasis added.)

Clearly, the area of the skin behind the irradiation window constitutes the irradiated portion of the skin surface. It is thus explicitly described that preferably the surface of the skin from where light can be received is smaller than the irradiated portion of the skin surface.

Regarding claims 67 and 68 the objection was raised that the description does not describe that the skin surface portion from which fluorescent radiation can be received can be 1 cm². While this appears correct for page 7, lines 25-29 (greater than 1-4 cm²), it is disclosed at page 8, lines 9-10 that the skin surface to be measured (measuring involving receiving radiation) is preferably 1 to 4 cm², so the 1 cm² value is described.

In view of the foregoing, it is clear that the subject matter of the specified claims is sufficiently described in the specification so that the requirements of 35 U.S.C. 112, first paragraph, are met.

In paragraph 9 of the Office action, the Examiner stated that claims 36, 37 and 51-53 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has decided to accept the Examiner's suggestion. Accordingly, these claims have now been rewritten in independent form including all the limitations of the base claim and any intervening claims.

In paragraph 10 of the Office action, the Examiner stated that claims 49, 50 and 69-72 are allowed. Applicant has accordingly maintained these claims in the case.

All the other claims in the case (claims 32, 38-40, 43-45, 47-48, 54-58, 60, 61 and 65) have been cancelled without prejudice.

In summary, what applicant is doing in this Amendment is as follows. Claims 34, 35, 62, 64, 66-68, 73 and 74 were rejected only under Section 112, first paragraph (and not based on Section 102 or 103); for the reasons set forth above, these claims satisfy the written description requirement and accordingly are now in condition for allowance. Next, applicant has elected to retain the claims which the Examiner stated are allowable (these being claims 36, 37, 49, 50, 51-53, and 69-72). All the other claims in the case (that is, all the claims rejected based on Sections 102 and 103) have been cancelled without prejudice.

Since all open items have now been resolved, it is clear that a Notice of Allowance is now in order and is respectfully requested. If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. VOB-34537US1.

Respectfully submitted,
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